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~~Department of Consumer Affairs~~ General

17 Respondent. 18 II

~~DEPARTMENT OF CONSUMER AFFAIRS~~ DEPARTMENT OF CONSUMER AFFAIRS AND HEARING AID

13 In the Matter of the Accusation Against: Case No. 11-2009-08
14
15 STEVEN REICHENBACH
12370 Hesperia Road, Suite 1
Victorville, CA 92394
16 Audiologist License No. AU 2184

ACCUSATION

19 Complainant alleges:

20

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PARTIES

22 I solely in her official capacity as the Executive Officer of the Speech-Language Pathology and 23 " Audiology and Hearing Aid Dispensers Board, Department of Consumer Affairs (hereinafter 24 II "Board").

25 2. On or about October 30, 2002, the Board issued Audiologist License Number 26 II AU 2184 to STEVEN REICHENBACH (hereinafter "Respondent"). The Audiologist License 27 II was in full force and effect at all times relevant to the charges brought herein and will expire on 28 II October 31, 2012, unless renewed.

**JURISDI
CTION**

3. This Accusation is brought before the Speech-Language Pathology and

Audiology and Hearing Aid Dispensers Board, Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2531.5 of the Code states:

"The board shall issue, suspend, and revoke licenses and approvals to practice speech-language pathology and audiology as authorized by this chapter."

5. Section 2533 of the Code states:

"The board may refuse to issue, or issue subject to terms and conditions, a license on the grounds specified in Section 480, or may suspend, revoke, or impose terms and conditions upon the license of any licensee if he or she has been guilty of unprofessional conduct.

Unprofessional conduct shall include, but shall not be limited to, the following

"

"(f) Incompetence or gross negligence in the practice of speech-language pathology or audiology.

"(g) Other acts that have endangered or are likely to endanger the health, welfare and safety of the public."

6. California Code of Regulations, title 16, section 1399.156, states:

"Unprofessional conduct as set forth in Section 2533 of the code includes, but is not limited to the following:

"(a) Violating or conspiring to violate or aiding or abetting any person to violate the provisions of the Act or these regulations.

"

"(c) Incompetence or negligence in the practice of speech-language pathology or audiology which has endangered or is likely to endanger the health, welfare, or safety of the public. "

ACCUSATION CASE NO. 11-2009-08

1 7. Section 125.3 of the Code states, in pertinent part, that the Board may request
2 the administrative law judge to direct a licensee found to have committed a violation of
3 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
4 and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

6 (Incompetence)

7 8. Respondent is subject to disciplinary action under sections 2531.5 and 2533, as
8 defined by section 2533, subdivisions (f) and (g), of the Code, and Title 16, California Code of
9 Regulations, section 1399.156, subdivisions (a) and (c), in that respondent was incompetent in his
10 practice of speech-language pathology or audiology involving patient O.R., as more particularly
11 alleged hereinafter:

A. On or about September 8, 2006, patient O.R., then a 66-year old male, presented to HearUSA dba HEARx for a hearing test and hearing aid evaluation, and was seen by respondent. Patient O.R.'s history included hearing loss, tinnitus,² dizziness, and drainage in both ears for five years or more. Respondent did not obtain from patient O.R. a thorough medical or audiometric history such as any history of middle ear disease, or previous ear surgery.

B. Respondent performed an audiometric³ evaluation on patient O.R. No individual ear word recognition was noted by respondent on the audiogram. Respondent noted mild bilateral sensorineural⁴ loss without any bone conduction threshold observed on the audiogram. Patient O.R. also underwent a tympanometrics evaluation which showed a

22 1 Initials are used to protect patient privacy. Full names will be disclosed in discovery.

23 2 Ringing in the ears.

24 3 Audiometric evaluation is the testing of hearing ability and to determine a person's
25 hearing levels.

26 4 Sensorineural hearing loss occurs when there is damage to the inner ear (cochlea), or to
the nerve pathways from the inner ear to the brain.

28 S Tympanometry is an examination used to test the condition of the middle ear and mobility of the eardrum (tympanic membrane) and the conduction bones by creating variations of (continued. . .)

1 flat tracing for the right ear, and a left ear tracing that appeared to contain significant
2 artifacts. There was no recommendation for any medical intervention for these findings.
3 After the hearing aid evaluation, patient O.R. agreed to be fitted with bilateral Rexton
4 Calibra 2 Free DM behind-the-ear hearing aids

5 C. Respondent took ear impressions of patient O.R.'s right and left ear canals for
6 custom earmolds to be fitted with hearing aids by, first, otoscopically evaluating patient
7 O.R.'s ear canals which he found to be clear. Next, respondent added a lubricant to both ear
8 canals and placed protective otoblocks⁶ in each ear canal. Impression material was then
9 placed into patient O.R.'s ear canals and respondent waited for the material to cure. After
10 five minutes, respondent removed the right ear impression without incident using a
11 technique to release any vacuum pressure by manipulating the outer ear. Respondent used
12 the same technique to remove the left ear impression but could not do so without significant
13 discomfort to patient O.R. Respondent repeated the vacuum release procedure and added
14 more lubricant around the perimeter of the impression in a further attempt to remove the left
15 ear impression. Respondent also instructed patient O.R. to massage his left cheek in an
16 attempt to move the lubricant further down the left ear canal. This procedure was repeated
17 several times until respondent was able to remove the left ear impression.

18 D. In respondent's declaration to the Board, he stated that after he had removed the
19 ear impression from patient O.R.'s left ear canal, he performed an otoscopic examination of
20 the patient's left ear canal and found it to be free of bleeding, abrasions, or inflammation.
21 He further stated that he performed a post-impression tympanometric evaluation and found
22 patient O.R.'s left middle ear to be normal with an intact tympanic membrane.

23 E. On or about September 13, 2006, patient O.R. presented to the emergency room
24 at K.P. Hospital with complaints of left ear pain. On evaluation, a foreign body was noted to
25 be lodged in patient O.R.'s left ear canal which could not be removed by conventional
26 air pressure in the ear canal.

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28 ⁶ An otoblock is a special cotton or foam dam which is inserted in the ear canal to protect
the eardrum.

1 means without causing considerable discomfort to the patient. Patient O.R. was placed
2 under general anesthesia and residual impression material and otoblock were removed from
3 the left ear canal.

4 9. Respondent was incompetent in his practice of speech-language pathology or
5 audiology involving patient O.R. which included, but was not limited to, the following

6 (a) Respondent failed to discover the residual impression material and otoblock in
7 patient O.R.'s left ear canal when he performed a post-impression removal otoscopic
8 inspection on or about September 8, 2006.

9 (b) Respondent failed to document that his post-impression removal tympanometric
10 evaluation of patient O.R.'s left ear canal showed an intact and normally moving eardrum.

11 **SECOND CAUSE FOR DISCIPLINE**

12 (Gross Negligence)

13 10. Respondent has further subjected his Audiologist's License No. AU 2184 to
14 disciplinary action under sections 2531.5 and 2533, as defined by section 2533, subdivisions (f) 15
and (g), of the Code, and Title 16, California Code of Regulations, section 1399.156, subdivisions 16 (a)
and (c), in that respondent was grossly negligent in his practice of speech-language pathology 17 or
audiology involving patient O.R., as more particularly alleged hereinafter

18 11. Paragraph 8, above, is hereby incorporated by reference and re-alleged as if
19 fully set forth herein.

20 12. Respondent committed gross negligence in his practice of speech-language
21 pathology or audiology involving patient O.R. which included, but was not limited to, the
22 following:

23 (a) Respondent failed to discover the residual impression material and otoblock in
24 patient O.R.'s left ear canal when he performed a post-impression removal otoscopic
25 inspection on or about September 8, 2006.

26 (b) Respondent failed to document that his post-impression removal tympanometric
27 evaluation of patient O.R.'s left ear canal showed an intact and normally moving eardrum.

28 III

Annemarie Del Mug

1 PRAYER

August 23, 2011

2 alleged, and the following, the Chaplain, the Speech-Language Pathology and Audiology and
herein

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22 23 24 Hearing Aid Dispensers Board issue a decision:

Executive Officer

1. Revoking or suspending Audiologist License Number AU 2184, heretofore

Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board

Department of Consumer Affairs Respondent STEVEN REICHENBACH;

State of California

Complainant

2. Ordering respondent STEVEN REICHENBACH, to pay the Speech-

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